



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland  
(Housing and Property Chamber) under Section 18(1) of the Housing  
(Scotland) Act 1988**

**Chamber Ref: FTS/HPC/EV/18/3042**

**Re: Property at 5A High Street, Newmilns, KA16 9EE (“the Property”)**

**Parties:**

**Mr Mohammed Ashraf, 47 Main Street, Newmilns, KA16 9DA (“the Applicant”)**

**Miss Lorraine Ramage, 5A High Street, Newmilns, KA16 9EE (“the  
Respondent”)**

**Tribunal Members:**

**Colin Dunipace (Legal Member)**

**Decision in absence of the Respondent**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the  
Tribunal”) determined that an Order should be made in terms of section 18(1)  
of the Housing (Scotland) Act 1988.**

**Background**

**The Application for recovery of possession of the Property was received by  
the Tribunal on 18 December 2018.**

**A Notice of Acceptance of the Application by the First-tier Tribunal was made  
under Rule 9 of the First-tier Tribunal for Scotland Housing and Property  
Chamber Rules of Procedure 2017 as amended was made on 13 December  
2018.**

**The Application is stated as being in terms of Rule 65 of Section 18 of the  
Housing (Scotland) Act 1988 on the basis of grounds 8, 10, 11 and 12.**

**Notice was sent to the parties in relation to the day, time and location of the  
Case Management Discussion on 17 January 2019.**

**The Applicant attended at this Case Management Discussion. The Respondent was neither present nor represented at the Case Management Discussion. No explanation for the foregoing was provided and to date the Tribunal has received no written representations from the Respondent. I was satisfied that intimation of the Case Management Discussion had been made upon the Respondent.**

### **The Case Management Discussion**

**The Applicant attended at the Case Management Discussion. At this time he made reference to the original lease between the parties dated 15 May 2017 in respect of the subject Property. The Applicant accepted that the lease was not a Short Assured Tenancy given that the term of the original lease was for one month, with the lease continuing on a month to month basis thereafter.**

**In support of his Application the Applicant stated that he was seeking possession of the Property in terms of Rule 65 of the Housing (Scotland) Act 1988, and made reference to Grounds 8, 10, 11 and 12, namely that the respondent was at least three months in arrears of rent, that the Respondent had given Notice to Quit which had expired, that the Respondent had persistently delayed in paying rent and that rent was outstanding as at the commencement of these proceedings.**

**In support of his submissions the Applicant made reference to his rent book and spreadsheet which showed that full payments of rent had been made by the Respondent until March 2018 when a partial payment had been made. Thereafter no payments had been made by the respondent since April 2018. The Applicant advised that the current arrears of rent were in the sum of £4045.05. The Applicant advised that the Respondent had made no arrangements in relation to the payment of these arrears.**

**The Applicant also made reference to the Notice to Quit which had been signed by the Respondent dated 16 August 2018. This Notice made reference to the respondent vacating the Property as at 18 August 2018. The Applicant advised that notwithstanding this Notice that the Respondent had not vacated the Property and continued to reside therein.**

**The Applicant further made reference to a letter from East Ayrshire Council to himself dated 26 March 2018 indicating that the Housing Benefit claim for the Respondent had been cancelled from 17 March 2018 and that no further payments were to be made after that date. The Applicant confirmed that no further such payments had been received by him. The Applicant further stated that on 15 November 2018 that he had contacted the Local Authority in relation to rent payments and been advised that the Respondent would require to divert any sums due in relation to Universal Credit to himself, but that no such payments had been made.**

**The Applicant further made reference to the documentation sent by him to the Local Authority in terms of section 11 of the Homelessness etc (Scotland) Act 2003.**

## Findings in Fact

1. The Parties entered into a tenancy agreement on 15 May 2017. The initial lease was to last for one month and the tenancy thereafter continued on a month to month basis. The rental due in respect of this tenancy was in the sum of £350 per month.
2. The Respondent made payments to the Applicant in terms of the agreed sum until 17 March 2018. Thereafter the Applicant has received no payments from the Applicant.
3. From the commencement of the lease until 17 March 2018 the Respondent was in receipt of Housing Benefit. These payments ceased on the aforementioned date.
4. The Respondent served a Notice to Quit on the Applicant on 16 August 2018 indicating that she intended to vacate the premises as at 18 August 2018. The Respondent still remains within the Property.

## Findings in Fact and Law

1. The Applicant is entitled to recover possession of the Property from the Respondent.

## Reasons for Decision

The Applicant attended at his Case Management Discussion. The Respondent was not present at this Discussion. The Applicant was able to establish that he was entitled to possession of the Property in terms of Rule 65 of the Housing (Scotland) Act 1988, and that Grounds 8, 10, 11 and 12, namely that the respondent was at least three months in arrears of rent, that the Respondent had given Notice to Quit which had expired, that the Respondent had persistently delayed in paying rent and that rent was outstanding as at the commencement of these proceedings had been established.

## Right of Appeal

In terms of Section 46 of the Tribunal (Scotland) Act 2014, a party aggrieved by the decision of the Tribunal may appeal to the Upper Tribunal for Scotland on a point of law only. Before an appeal can be made to the Upper Tribunal, the party must first seek permission to appeal from the First-tier Tribunal. That party must seek permission to appeal within 30 days of the date the decision was sent to them.

Colin Dunipace

Legal Member

Date

11/2/19